

to form fluid conduits between the corresponding drinking and venting apertures are provided. The claimed seal means is further limited to a structure in which a fluid barrier is formed between the corresponding drinking and venting apertures when the apertures are out of respective rotational registration with one another (e.g., the lid is closed) as well as when the drinking and venting apertures are in registration with one another (e.g., when the lid is in the drinking position). In this manner, the interstitial areas between the claimed upper surface of the base member and the lower surface of the cap member are fluidly isolated so that the lid maintains its hygienic condition for a longer period of time. In the dependent claims, a further structure is recited which allows the claimed base and cap members to be easily separated for cleaning. Stated another way, when the lid is in the closed position, the seal means prevents fluid from inside the drinking vessel from reaching the interstitial areas between the cap and base members. Furthermore, if the lid is rotated to a closed position while there is still fluid in the drinking basin, that fluid will not flow back into the interstitial areas.

The Examiner asserts on page 2, paragraph 4 of her Office Action that the cited Knight reference "teaches a seal means between the cap and base members for forming a seal when the vent holes are both aligned and misaligned." The Applicant's representative has carefully reviewed the Knight '964 patent and finds no such structure shown, taught, or suggested. In fact, the Knight device is a conventional twist dispenser for talcum powder, comprising an inner cap 12 and a concentric, rotatable outer cap 13 (see Figure 4). The inner cap has a plurality of dispenser openings 27 which are registerable with openings 36 in the outer cap 13. Although interstitial areas between the inner and outer caps may be sealed when the lid is in an open position, there are no means provided to prevent material

inside the container 14 from entering the interstitial areas between the two cap members (e.g., the gap apparent near reference numerals 26 and 38 of Figure 3) when the dispenser openings 36 and the outer cap 13 are out of registration with the dispenser openings 27 on the inner cap 12. Thus, the combination of references cited by the Examiner fails to show the structure positively recited in independent Claim 11. In addition, there is no hint or suggestion in any of the cited art to modify any of the cited references to arrive at the claimed structure. It should be noted that the Knight reference relates to a talcum powder dispenser in which interstitial contamination between the inner and outer caps is not a significant factor. The claimed invention is provided for use with a variety of beverages including coffee beverages having dairy products therein. It is extremely important to limit contamination of the interstitial areas of the cap from these commodities in order to prevent fouling. There simply is no motivation to modify any of the cited references to perform this function as it does not appear that this problem has been recognized in the prior art. It is well settled that the discovery of the source of a problem is a secondary indicia of patentability. *In re Sponnable*, 160 USPQ 237, 243 (CCPA) 1969. Therefore, Claim 11, and the claims which depend therefrom, should be allowed and the rejection under 35 U.S.C. § 103(a) rescinded.

Dependent Claims 17 through 20 recite specific structural arrangements of the bayonet ears on the claimed invention which are also not shown, taught, or suggested by the art of record. Therefore, these claims should be allowed in addition to their dependence on allowable Claim 11.

Reexamination and reconsideration of the application is earnestly requested. There has been no amendment to the claims.

The Examiner is invited to contact the Applicant's representative by telephone at  
(206) 682-1600 to resolve any remaining issues.

Respectfully submitted,

Michelle J. Pillers et al.

RICHARDSON & FOLISE

  
Michael J. Folise  
Reg. No. 31,952

1200 Fifth Avenue, Suite 1801  
Seattle, WA 98101  
Phone: (206) 682-1600  
Fax: (206) 682-3985

Enclosure: Postcard

D:\PA19\P15\AMNDRESP020719.WPD